

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-20448

D-1 DUANE PETERSON,

Defendant.

**ORDER DIRECTING THE PARTIES TO MEET AND CONFER
AND SUBMIT VERBAL STATUS REPORT**

Having reviewed the joint proposed jury instructions submitted on November 18, 2022, the court is not satisfied that the parties have made adequate efforts to discuss and resolve the pending issues among themselves. For example, the court is presented with a multipage dispute relative to the definition of reasonable doubt. This court's favored definition of reasonable doubt is of long standing, approved by the Sixth Circuit, *see USA V. Ashrafkhan*, 964 F.3d 574 (2020), and will be delivered in this case. No actual dispute arises; the court is left wondering how much effort has been expended objecting to the unobjectionable. As another example, in the Separate Consideration instruction, the court finds this addition, proposed apparently by the defense: "There is a caveat to this instruction for Counts 2 and 3, which will be explained in due course." And then this notation by the government: "The government does not agree with this addition, as it is confusing for the jury." There is no explanation of why this is supposed to be confusing, and no alternate language is suggested. Other examples exist. Accordingly,

IT IS ORDERED that the parties forthwith upon receipt of this order meet and confer in a good faith effort to narrow the areas of disagreement over the jury instructions as much as possible. It is not sufficient for the parties to present the court with two lengthy versions of one instruction, which, at a glance, share many similarities, leaving the court to parse out the differences. The parties must work together to identify the specific language that is not agreeable, to prepare to express why, and to propose alternate language.

IT IS FURTHER ORDERED that on November 21, 2022, at 2:00 pm, the parties must appear for a telephonic status conference and submit a verbal joint status report to the court (1) pinpointing any remaining jury instruction disputes and (2) *concisely* explain their positions as to each dispute. The Court will initiate the call.

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 18, 2022

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 18, 2022, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522